

From: Brian Leair
To: Microsoft ATR
Date: 1/28/02 1:19am
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

I am a professional software developer. I develop commercial software that runs on the Windows platform in addition to several unix platforms.

I believe that there are several significant failures of the proposed settlement.

III.D. API Disclosure

It is completely unclear how this requirement differs from what they do now voluntarily. The Windows API is incredibly complex and very difficult to document. One competitive barrier Microsoft uses is that they document most of their API, but omit certain key pieces of information. However, an omission of information is nearly impossible to prove. Further, there seems to be some belief that if third parties have access to the source code, the documentation will somehow magically improve. I do not see how this could be - reviewing the source code and correcting the documentation will be a monumental task, and no third party that I know has the resources or ability to do this.

III.J.2 Exceptions

This section specifically excludes many software developers from participating in the benefits of III. MS has so ruthlessly exterminated all business competitors, that the only viable competition comes from volunteer efforts. Yet III.J.2 easily allows Microsoft the latitude to exclude independent developers from the benefits of these remedies.

There are several specific damages that consumers may suffer if a stronger settlement isn't reached

Microsoft can use its API barriers to make it so costly for competitors to enter a market space the consumer will be given only ONE current viable option. Namely the option created by Microsoft.

To whoever is reading this, I realize that you have had to wade through a lot of material. I very much appreciate your time and effort.

Sincerely,

Brian D. Leair of OPNET Technologies

